

MT LEGISLATIVE HISTORY

Chapter 804 1991

Bill H _____ S 249

Original bill & hist. ☒ C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Mar 07 ☒ C

Hearing Date(s) Feb 14 ☒ C

Mar 09 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Mar 11 ☒ C

Feb 15 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

Note: Conference Committee minutes
were not recorded.

SENATE BILL NO. 249

INTRODUCED BY SVRCEK
BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

FEBRUARY 1, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

 FIRST READING.

FEBRUARY 15, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 16, 1991 PRINTING REPORT.

 SECOND READING, DO PASS.

FEBRUARY 18, 1991 ENGROSSING REPORT.

 THIRD READING, PASSED.
AYES, 49; NOES, 0.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

 FIRST READING.

MARCH 11, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 12, 1991 SECOND READING, CONCURRED IN.

MARCH 14, 1991 THIRD READING, CONCURRED IN.
AYES, 100; NOES, 0.

 RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 14, 1991 RECEIVED FROM HOUSE.

MARCH 16, 1991 ON MOTION, CONSIDERATION PASSED
UNTIL THE 59TH LEGISLATIVE DAY.

MARCH 23, 1991

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, CONFERENCE COMMITTEE
REQUESTED.

MARCH 28, 1991

CONFERENCE COMMITTEE APPOINTED.

IN THE HOUSE

APRIL 3, 1991

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 20, 1991

CONFERENCE COMMITTEE REPORTED.

APRIL 23, 1991

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

APRIL 23, 1991

CONFERENCE COMMITTEE REPORT
ADOPTED.

IN THE SENATE

APRIL 24, 1991

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *249*
2 INTRODUCED BY *Smith*
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA
6 CRIMINAL JUSTICE INFORMATION ACT BY EXPANDING THE DEFINITION
7 OF CRIMINAL JUSTICE AGENCY TO INCLUDE FEDERAL LAW
8 ENFORCEMENT AGENCIES; CLARIFYING THE DEFINITION OF PUBLIC
9 CRIMINAL JUSTICE INFORMATION; CLARIFYING THE PROVISION
10 CONCERNING DISSEMINATION OF CONFIDENTIAL CRIMINAL JUSTICE
11 INFORMATION; LIMITING THE CIRCUMSTANCES UNDER WHICH THE
12 STATE REPOSITORY SHALL RETURN ALL COPIES OF AN INDIVIDUAL'S
13 PHOTOGRAPHS AND FINGERPRINTS; AND AMENDING SECTIONS
14 44-5-103, 44-5-202, AND 44-5-303."
15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
17 **Section 1.** Section 44-5-103, MCA, is amended to read:
18 "44-5-103. Definitions. As used in this chapter, the
19 following definitions apply:
20 (1) "Access" means the ability to read, change, copy,
21 use, transfer, or disseminate criminal justice information
22 maintained by criminal justice agencies.
23 (2) "Administration of criminal justice" means the
24 performance of any of the following activities: detection,
25 apprehension, detention, pretrial release, posttrial

1 release, prosecution, adjudication, correctional
2 supervision, or rehabilitation of accused persons or
3 criminal offenders. It includes criminal identification
4 activities and the collection, storage, and dissemination of
5 criminal justice information.
6 (3) "Confidential criminal justice information" means:
7 (a) criminal investigative information;
8 (b) criminal intelligence information;
9 (c) fingerprints and photographs;
10 (d) criminal justice information or records made
11 confidential by law; and
12 (e) any other criminal justice information not clearly
13 defined as public criminal justice information.
14 (4) (a) "Criminal history record information" means
15 information about individuals collected by criminal justice
16 agencies consisting of identifiable descriptions and
17 notations of arrests; detentions; the filing of complaints,
18 indictments, or informations and dispositions arising
19 therefrom; sentences; correctional status; and release. It
20 includes identification information, such as fingerprint
21 records or photographs, unless such information is obtained
22 for purposes other than the administration of criminal
23 justice.
24 (b) Criminal history record information does not
25 include:

1 (i) records of traffic offenses maintained by the
2 department of justice; or

3 (ii) court records.

4 (5) (a) "Criminal intelligence information" means
5 information associated with an identifiable individual,
6 group, organization, or event compiled by a criminal justice
7 agency:

8 (i) in the course of conducting an investigation
9 relating to a major criminal conspiracy, projecting
10 potential criminal operation, or producing an estimate of
11 future major criminal activities; or

12 (ii) in relation to the reliability of information
13 including information derived from reports of informants or
14 investigators or from any type of surveillance.

15 (b) Criminal intelligence information does not include
16 information relating to political surveillance or criminal
17 investigative information.

18 (6) "Criminal investigative information" means
19 information associated with an individual, group,
20 organization, or event compiled by a criminal justice agency
21 in the course of conducting an investigation of a crime or
22 crimes. It includes information about a crime or crimes
23 derived from reports of informants or investigators or from
24 any type of surveillance. It does not include criminal
25 intelligence information.

1 (7) "Criminal justice agency" means:

2 (a) any court with criminal jurisdiction;

3 (b) any federal, state, or local government agency
4 designated by statute or by a governor's executive order to
5 perform as its principal function the administration of
6 criminal justice; or

7 (c) any local government agency not included under
8 subsection (7)(b) that performs as its principal function
9 the administration of criminal justice pursuant to an
10 ordinance or local executive order.

11 (8) "Criminal justice information" means information
12 relating to criminal justice collected, processed, or
13 preserved by a criminal justice agency. It does not include
14 the administrative records of a criminal justice agency.

15 (9) "Criminal justice information system" means a
16 system, automated or manual, operated by federal, regional,
17 state, or local governments or governmental organizations
18 for collecting, processing, preserving, or disseminating
19 criminal justice information. It includes equipment,
20 facilities, procedures, and agreements.

21 (10) (a) "Disposition" means information disclosing that
22 criminal proceedings against an individual have terminated
23 and describing the nature of the termination or information
24 relating to sentencing, correctional supervision, release
25 from correctional supervision, the outcome of appellate or

1 collateral review of criminal proceedings, or executive
 2 clemency. Criminal proceedings have terminated if a decision
 3 has been made not to bring charges or criminal proceedings
 4 have been concluded, abandoned, or indefinitely postponed.

5 (b) Particular dispositions include but are not limited
 6 to:

7 (i) conviction at trial or on a plea of guilty;
 8 (ii) acquittal;
 9 (iii) acquittal by reason of mental disease or defect;
 10 (iv) acquittal by reason of mental incompetence;
 11 (v) the sentence imposed, including all conditions
 12 attached thereto by the sentencing judge;
 13 (vi) deferred imposition of sentence with any conditions
 14 of deferral;
 15 (vii) nolle prosequi;
 16 (viii) nolo contendere plea;
 17 (ix) deferred prosecution or diversion;
 18 (x) bond forfeiture;
 19 (xi) death;
 20 (xii) release as a result of a successful collateral
 21 attack;
 22 (xiii) dismissal of criminal proceedings by the court
 23 with or without the commencement of a civil action for
 24 determination of mental incompetence or mental illness;
 25 (xiv) a finding of civil incompetence or mental illness;

1 (xv) exercise of executive clemency;
 2 (xvi) correctional placement on probation or parole or
 3 release; or
 4 (xvii) revocation of probation or parole.

5 (c) A single arrest of an individual may result in more
 6 than one disposition.

7 (11) "Dissemination" means the communication or transfer
 8 of criminal justice information to individuals or agencies
 9 other than the criminal justice agency that maintains such
 10 information. It includes confirmation of the existence or
 11 nonexistence of criminal justice information.

12 (12) "Public criminal justice information" means
 13 information, ~~except confidential criminal justice~~
 14 ~~information:~~

15 (a) made public by law;
 16 (b) of court records and proceedings;
 17 (c) of convictions, deferred sentences, and deferred
 18 prosecutions;
 19 (d) of postconviction proceedings and status;
 20 (e) originated by a criminal justice agency, including:
 21 (i) initial offense reports;
 22 (ii) initial arrest records;
 23 (iii) bail records; and
 24 (iv) daily jail occupancy rosters;
 25 (f) considered necessary by a criminal justice agency

1 to secure public assistance in the apprehension of a
2 suspect; or

3 (g) statistical information.

4 (13) "State repository" means the recordkeeping systems
5 maintained by the department of justice pursuant to 44-2-201
6 in which criminal history record information is collected,
7 processed, preserved, and disseminated.

8 (14) "Statistical information" means data derived from
9 records in which individuals are not identified or
10 identification is deleted and from which neither individual
11 identity nor any other unique characteristic that could
12 identify an individual is ascertainable."

13 **Section 2.** Section 44-5-202, MCA, is amended to read:

14 **"44-5-202. Photographs and fingerprints.** (1) The
15 following agencies may, if authorized by subsections (2)
16 through (5), collect, process, and preserve photographs and
17 fingerprints:

18 (a) any criminal justice agency performing, under law,
19 the functions of a police department or a sheriff's office,
20 or both;

21 (b) the department of institutions; and

22 (c) the department of justice.

23 (2) The department of institutions may photograph and
24 fingerprint anyone under the jurisdiction of the division of
25 corrections or its successor.

1 (3) A criminal justice agency described in subsection
2 (1)(a) shall photograph and fingerprint a person who has
3 been arrested or noticed or summoned to appear to answer an
4 information or indictment if:

5 (a) the charge is the commission of a felony;

6 (b) the identification of an accused is in issue; or

7 (c) it is required to do so by court order.

8 (4) Whenever a person charged with the commission of a
9 felony is not arrested, he shall submit himself to the
10 sheriff, chief of police, or other concerned law enforcement
11 officer for fingerprinting at the time of his initial
12 appearance in court to answer the information or indictment
13 against him.

14 (5) A criminal justice agency described in subsection
15 (1)(a) may photograph and fingerprint an accused if he has
16 been arrested for the commission of a misdemeanor, except
17 that an individual arrested for a traffic, regulatory, or
18 fish and game offense may not be photographed or
19 fingerprinted unless he is incarcerated.

20 (6) Within 10 days the originating agency shall send
21 the state repository a copy of each fingerprint taken on a
22 completed form provided by the state repository.

23 (7) The state repository shall compare the fingerprints
24 received with those already on file in the state repository.
25 If it is determined that the individual is wanted or is a

fugitive from justice, the state repository shall at once inform the originating agency. If it is determined that the individual has a criminal record, the state repository shall send the originating agency a copy of the individual's complete criminal history record.

(8) Photographs and fingerprints taken shall be returned by the state repository to the originating agency, which shall return all copies to the individual from whom they were taken, in the following circumstances:

(a) if--a--court--so--orders upon order of the court that had jurisdiction when proceedings against the individual were dismissed prior to any conviction or when the individual was acquitted at trial; or

(b) upon the request of the individual when he was released without the filing of charges:

{i}--if--no--charges--were--filed;

{ii}--if--a--misdemeanor--charge--did--not--result--in--a conviction; or

{iii}--if--the--individual--was--found--innocent--of--the offense--charged."

Section 3. Section 44-5-303, MCA, is amended to read:

"44-5-303. Dissemination of confidential criminal justice information. Dissemination of confidential criminal justice information is restricted to criminal justice agencies, or to those authorized by law to receive it, and

to those authorized to receive it by a district court upon a written finding that the demands of individual privacy do not clearly exceed the merits of public disclosure. A criminal justice agency that accepts confidential criminal justice information assumes equal responsibility for the security of such information with the originating agency. Whenever confidential criminal justice information is disseminated, it must be designated as confidential."

-End-

3/29 SIGNED BY GOVERNOR
CHAPTER NUMBER 278

EFFECTIVE DATE: 10/01/91

SB 249 INTRODUCED BY SVRCEK

AMEND THE MONTANA CRIMINAL JUSTICE INFORMATION ACT
BY REQUEST OF DEPARTMENT OF JUSTICE

2/01	INTRODUCED		
2/01	REFERRED TO JUDICIARY		
2/02	FIRST READING		
2/14	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/16	2ND READING PASSED	48	0
2/18	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO JUDICIARY		
3/07	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/12	2ND READING CONCURRED	96	2
3/14	3RD READING CONCURRED	100	0
	RETURNED TO SENATE WITH AMENDMENTS		
3/23	2ND READING AMENDMENTS NOT CONCURRED	47	0
3/28	CONFERENCE COMMITTEE APPOINTED		
4/22	CONFERENCE COMMITTEE REPORT NO. 1		
4/23	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
4/24	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	47	1
	HOUSE		
4/03	CONFERENCE COMMITTEE APPOINTED		
4/22	CONFERENCE COMMITTEE REPORT NO. 1		
4/22	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	90	1
4/23	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	85	10
4/29	SIGNED BY PRESIDENT		
5/03	SIGNED BY SPEAKER		
5/03	TRANSMITTED TO GOVERNOR		
5/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 804		
	EFFECTIVE DATE: 10/01/91		

SB 250 INTRODUCED BY KEATING, ET AL.

AMEND THE LAWS RELATING TO COMMITMENT OF
DEVELOPMENTALLY DISABLED PERSONS

BY REQUEST OF DEPARTMENT OF SOCIAL &
REHABILITATION SERVICES

2/01	FISCAL NOTE REQUESTED		
2/01	INTRODUCED		
2/01	REFERRED TO JUDICIARY		
2/02	FIRST READING		
2/05	FISCAL NOTE RECEIVED		
2/06	FISCAL NOTE PRINTED		
2/15	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/18	2ND READING PASSED	49	0
2/19	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO JUDICIARY		

be periodic review of limits, and that if four years from now the economic interest is there, the limits could be changed. He said he did not believe the Supreme Court would see this as a defensive measure, but a responsible measure.

Senator Towe asked Roger McGlenn to comment on Mike Sherwood's proposed amendment to change limits. Mr. McGlenn replied it is not the position of independent agents to tell the Legislature what limits should be. Jackie Terrell, American Insurance Association, replied she would rather not comment.

Closing by Sponsor:

Senator Nathe stated the position of DOA is to terminate the sunset provision and leave limits as they are.

HEARING ON SENATOR SENATE BILL 249

Presentation and Opening Statement by Sponsor:

Senator Paul Svrcek, District 26, said SB 249 would amend the Criminal Justice Information Act in four areas. He advised the Committee that page 4, line 3 makes it clear that federal agencies fall within the statute definition, and are privy to information; and page 6, lines 13-14 clean up confidential criminal justice information language. He said there are also changes on page 9, lines 9-15, and page 10, lines 1-3, and that the Department of Justice (DOJ) would offer amendments.

Proponents' Testimony:

Paul Johnson, Assistant Attorney General, DOJ, advised the Committee he has been working with the Criminal Justice Information Act and found a few flaws which need clearing up. He said he would be available to answer questions relating to the changes.

Opponents' Testimony:

There were no opponents of SB 249.

Questions From Committee Members:

Senator Grosfield asked if the definitions were generic to criminal justice agencies. Paul Johnson replied the definition provided in the bill on page 4 relegates the functions of virtually all peace officers, and some are designated by executive order. He explained that DOJ, as a whole, is a criminal justice agency, and that investigators with the Department of Commerce are also designated as a criminal justice agency.

Chairman Pinsoneault asked if federal presumption were not the case here. Paul Johnson replied that the whole federal system was in place when this legislation was drafted in 1979 to dovetail with

it in order to receive federal enforcement funds. He said Montana legislation thus complements the federal system.

Senator Towe said he devoted four years to this issue in 1977 and that it passed in 1979. He commented he was glad the Department was putting photographs and fingerprints in the bill.

Senator Towe asked what confidential criminal justice does in page 6 of the bill. Paul Johnson replied that the DOJ view is distinctive, and is made clear and confirmed by the language in page 6. He said it is compatible with language on page 2, and that he believes the old language is "surplussage". He said the Department asked what significance was attached to the old language, and no one could answer, but it causes a problem with what public information is.

Closing by Sponsor:

Senator Svrcek asked the Committee to give SB 249 favorable consideration.

EXECUTIVE ACTION ON SENATE BILL 249

Motion:

Discussion:

Amendments, Discussion, and Votes:

Senator Svrcek made a motion that the DOJ amendments to SB 249 be approved.

Senator Towe asked what would happen if an individual wants his photograph and/or fingerprints back before he is convicted, and if there would be a time element problem. Paul Johnson replied the bill doesn't specifically address this situation, but it has never been a practical problem.

Senator Svrcek's motion to amend SB 249 carried unanimously.

Recommendation and Vote:

Senator Svrcek made a motion that SB 249 DO PASS AS AMENDED. The motion carried unanimously.

ROLL CALL

SENATE JUDICIARY

COMMITTEE

52nd LEGISLATIVE SESSION -- 1999

Date 14 Feb 91

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen			
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.

Amendments to Senate Bill 249
Introduction Copy

Prepared by Peter Funk
Department of Justice
February 14, 1991

Original
14 Feb 91
SO 249

1. Page 9, line 11 through line 13.

Following: "jurisdiction" on line 11

Strike: remainder of line 11 through "trial" on line 13.

2. Page 9, line 15.

Following: "charges"

Insert: "or the charges did not result in a conviction".

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 15, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 249 (first reading copy -- white), respectfully report that Senate Bill No. 249 be amended and as so amended do pass:

1. Page 9, lines 11 through 13.

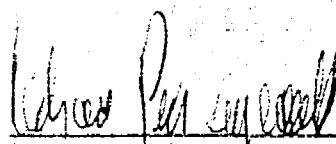
Following: "jurisdiction" on line 11

Strike: remainder of line 11 through "trial" on line 13

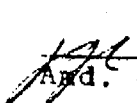
2. Page 9, line 15:

Following: "charges"

Insert: "or when the charges did not result in a conviction"

Signed: 

Richard Pinsoneault, Chairman

 2-15-91
And. Coord.

EB 2-15 12:25
Sec. of Senate

this way. All costs related to the evaluation, must be paid by the defendant. However, if the defendant is determined to be indigent, this will be paid by the District Court and will be reimbursed by the Department of Commerce.

Proponents' Testimony:

Dan Russell, Administrator - Department of Corrections, stated that this bill is introduced at the request of the Department of Institutions and not the Department of Justice. At present, the codes require that probation and parole officers prepare special evaluations and recommendations when individuals are convicted of certain sex crimes if the victim was less than 16 years old. Treatment and evaluation of sex offenders is a very specialized field and not all counselors or mental health professionals are trained or qualified to deal with sex offenders. Therefore, it is important that only those professionals qualified to treat these sex offenders be permitted to evaluate and recommend treatment for the purposes of these pre-sentence investigation reports. The Department asks for a do pass of this bill.

Michael J. Scolatti, Ph.D., Montana Sex Offender Treatment Association, stated he was in support of SB 170.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor:

SEN. VAUGHN stated that the bill is does not cause any fiscal impact. It provides a better way of handling these people and he asked that the committee give the bill a favorable consideration.

HEARING ON SB 249

AN ACT AMENDING THE MONTANA CRIMINAL JUSTICE INFORMATION ACT

Presentation and Opening Statement by Sponsor:

SEN. SVRCEK, SENATE DISTRICT 26, stated that SB 249 was requested by the Department of Justice and makes amendments to the Criminal Justice Information Act. It makes clear that Federal Agencies which perform as administrative criminal justice agencies fall within the statutory definition of a Criminal Justice Agency and also defines Criminal Justice Information. The bill addresses the circumstances under which an individual's fingerprint or photographs are obtained and may be returned to that person.

Proponents' Testimony:

Paul Johnson, Assistant Attorney General, stated he is appearing on behalf of the Attorney General. The Montana Criminal Justice Information Act was enacted in 1979 and in 10 years the criminal

justice entity has learned to work with the act and have discovered a few flaws. This bill addresses those small problems that have developed over the is 10 year period. "If the committee has any questions I will be glad to answer them."

Opponents' Testimony: none

Questions from the Committee:

REP. RUSSELL asked Mr. Johnson what is the reason for putting the word federal in the definition of "Criminal Justice Agency?" Mr. Johnson said any federal agency that is correspondent to a similar state agency would fall within the definition under this change. The reference to drug investigations has to do with the fact that if we are involved cooperatively with federal law enforcement agencies in a drug investigation, we are not permitted to share Criminal Justice Information, under current law.

REP. RUSSELL asked Mr. Johnson why not limit it to just drug enforcement?

Mr. Johnson said he can visualize other possibilities where cooperative investigations might arise.

Closing by Sponsor:

SEN. SVRCEK stated that one of the main reasons for including federal in the definition was related to the shoot-out they had at Holter Lake dealing with federal fugitives. There was some question as to whether the law enforcement information could be shared with the federal agents that were involved with that case. The intent of the entire bill is not to make any substantial changes in the law, but to clear up the information flow allowed by the act.

EXECUTIVE ACTION ON HB 923

Motion: REP. DARKO MOVED HB 923 DO PASS.

Discussion: REP. DARKO stated that the letter the committee received from the Federal Office of Child Support stated the bill addresses the problems they mentioned in their letter. It is the opinion of the Department that we need to mandate what the Federal Government is setting out.

REP. MEASURE stated he realizes we are over the barrel as far as the Federal Government is concerned. I am disgusted with the Department for waiting so long to bring this bill before us. The bill has a wide range scope and we should have been working on this for a year. These are expansive changes in the law. As deserving as the children are and as much as I would like to provide them with insurance, most working parents in middle income levels cannot afford health insurance in the state.

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 3-7-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE			
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Judiciary

COMMITTEE

BILL NO.

SB#949

DATE 3-7-91

SPONSOR(S) Sen. J. R. Cook

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Paul Johnson - Justice	Attorney General	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

counsellors who then question these individuals. Sixteen years of age seems to be an extreme extension of what we presently have.

REP. WHALEN stated that he also opposes the bill. "I have sympathy for victims in these situations, but I also have alot of concerns about people charged with these crimes and have not been found guilty by a jury of their peers. There is a big difference between a videotaped deposition of the young person and having them appear in court."

Motion/Vote: REP. BROWN moved to amend SB 364 with the coordination instruction handed out by John MacMaster. EXHIBIT 1 Motion carried unanimously.

Motion/Vote: REP. BROWN MOVED SB 364 BE CONCURRED IN AS AMENDED. Motion carried 16 to 3 with Rep's Whalen, Measure and Boharski voting no.

EXECUTIVE ACTION ON SB 170

Motion: REP. DARKO MOVED SB 170 BE CONCURRED IN.

Motion/Vote: REP. LEE moved SB 170 be amended with a coordination amendment to SB 51 recommended by John MacMaster. Motion carried 17 to 1 with Rep. Measure voting no.

Motion/Vote: REP. DARKO MOVED SB 170 BE CONCURRED IN AS AMENDED. Motion carried 18 to 1 with Rep. Measure voting no.

EXECUTIVE ACTION ON SB 249

Motion: REP. LEE MOVED SB 249 BE CONCURRED IN.

Discussion: REP. BOHARSKI stated he has some concerns with the new language of the bill. He said it was his concern that it should say the right to privacy outweighs the right to public disclosure and the bill says the exact opposite.

Motion: REP. BOHARSKI moved to amend SB 249.

Discussion: REP. BOHARSKI stated his amendment would insert "the merits of public disclosure clearly exceed" on page 10, line 3, after "that" and strike the underlined language on lines 3 and 4.

REP. MEASURE stated that this is already the language of the constitution and all they want is the ability to share this information without invading someone's privacy, why are we passing the bill?

John MacMaster explained that the section of the bill that is being amended sets out when you can disseminate it and when you can't. Without this in there, the District Court cannot allow someone to look at.

Vote: Motion carried unanimously.

Motion/Vote: REP. LEE MOVED BE CONCURRED IN AS AMENDED. Motion carried 15 to 4 with Rep's: Russell, Whalen, Measure, and Brown voting no.

EXECUTIVE ACTION ON SB 204

Motion: REP. MEASURE MOVED SB 204 BE CONCURRED IN.

Motion: REP. MEASURE moved to amend SB 204 by striking section 3 and section 7 and changing the title appropriately.

Discussion: REP. MEASURE stated his amendment is for the same reasons we have talked about regarding immunity all session.

Vote: Motion carried 11 to 9. EXHIBIT 2

Motion: REP. GOULD moved to amend SB 204 and asked John MacMaster to explain it to the committee.

Discussion: John MacMaster stated that the amendment would be on page 1, line 6, after the word "for" put in the word "first". On line 22, after the word "eight" and before the word "measure" put in the word "first". On page 4, it states the length of time you will lose your license on second and subsequent convictions and will have to be amended to apply to any conviction except for the first.

CHAIRMAN STRIZICH stated that we should try and allow some alternatives by limiting it to first offense it really crimps the effective use of this kind of a law. He stated he thought we should leave it the way it came in.

Vote: Motion failed.

Motion: REP. BROWN moved to amend SB 204 on page 1, line 22 after "a" insert "felony" and line 6 after "4", insert "felony".

Discussion: REP. BROWN stated that this penalty just applies to felony offenses. REP. BROWN emphasized he didn't want to make this kind of counselling mandatory for minor misdemeanor possession.

Vote: Motion carried 13 to 6. EXHIBIT 3

Motion/Vote: REP. LEE MOVED SB 204 BE CONCURRED IN AS AMENDED. Motion carried 19 to 1 with Rep. Gould voting no.

EXECUTIVE ACTION ON SB 58

Motion: REP. BROWN MOVED SB 58 BE CONCURRED IN.

Motion: REP. RICE moved to amend SB 58 with the Department of

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 3-9-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR			/
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE			/
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

HOUSE STANDING COMMITTEE REPORT

March 11, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 249 (third reading copy -- blue) be concurred in as amended.

Signed: 
Bill Strizich, Chairman

Carried by: Rep. Boharski

And, that such amendments read:

1. Page 10, line 3.

Following: "that"

Insert: "the merits of public disclosure clearly exceed"

2. Page 10, lines 3 and 4.

Strike: "do not clearly exceed the merits of public disclosure"

SENATE BILL NO. 249

INTRODUCED BY SVRCEK
BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

FEBRUARY 1, 1991

INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

FEBRUARY 15, 1991

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 16, 1991

PRINTING REPORT.

SECOND READING, DO PASS.

FEBRUARY 18, 1991

ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 49; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991

INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

MARCH 11, 1991

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 12, 1991

SECOND READING, CONCURRED IN.

MARCH 14, 1991

THIRD READING, CONCURRED IN.
AYES, 100; NOES, 0.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 14, 1991

RECEIVED FROM HOUSE.

MARCH 16, 1991

ON MOTION, CONSIDERATION PASSED
UNTIL THE 59TH LEGISLATIVE DAY.